

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

JESSE DEWAYNE PARKER,

Defendant and Appellant.

C062783

(Super. Ct. No.
08F09949)

A jury convicted defendant Jesse Dewayne Parker of arson of property, and the trial court found he had a prior serious felony conviction and a strike. (Pen. Code, §§ 451, subd. (d), 667, subds. (a), (b)-(i), 1170.12.) The trial court sentenced defendant to seven years eight months in prison. Defendant timely filed this appeal.

The facts are not relevant to this appeal, and may be stated briefly. On July 14, 2008, defendant poured gasoline on the roof of a mobile home and set fire to it. The occupants were not injured. One occupant, defendant's cousin, identified

defendant, and an expert testified that fingerprints found on a gasoline can recovered near the scene were defendant's fingerprints.

Defendant was sentenced on August 13, 2009.

On appeal, defendant contends that the trial court improperly imposed a \$30 criminal conviction assessment because the statute authorizing it, Government Code section 70373, was not in effect at the time he committed his crime.

Defendant concedes that we have rejected this claim in a published decision, *People v. Castillo* (2010) 182 Cal.App.4th 1410 [review den. June 9, 2010], but asks this court to reconsider the issue. This court also rejected the same claim in *People v. Fleury* (2010) 182 Cal.App.4th 1486 [review den. June 9, 2010]. We adhere to *Castillo* and *Fleury*.

Pursuant to this court's miscellaneous order number 2010-002, filed March 16, 2010, we deem defendant to have raised the issue whether amendments to Penal Code section 4019, effective January 25, 2010, apply retroactively to his pending appeal and entitle him to additional presentence credits. However, because defendant has a prior "serious" felony conviction, the more favorable formula does not apply to his case. (Pen. Code, §§ 1192.7, subd. (c), 4019, subds. (b)(2) & (c)(2).)

We note that the abstract misstates defendant's total sentence as seven years and "0" months, instead of "8" months. The trial court must prepare an accurate abstract to state the total sentence is seven years eight months. (See *People v. Zackery* (2007) 147 Cal.App.4th 380, 385-389.)

DISPOSITION

The judgment is affirmed. The trial court shall prepare and forward to the Department of Corrections and Rehabilitation a new abstract of judgment.

NICHOLSON, J.

We concur:

BLEASE, Acting P. J.

BUTZ, J.